

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 33291 of 2007(L)

PETITIONERS:

1. VINU MUNSHI, W/O.SANJAY MUNSHI,
SUNAMA HOUSE 140, AUGUST KRANTI MARG,
MUMBAI-400 036.
2. GIREEESH,S/O.GURULINGAPPA, 403, MEGH
DANUSH COMPLEX ADAJAN PATIA, SURAT-484 009.

BY ADV. SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS

RESPONDENTS:

1. M/S. GANDHIGRAM AGRO BASED INDUSTRIES,
CO-OPERATIVE SOCIETY LTD (GAICO) KURAVILANGAD
PIN 686 633 REPRESENTED BY ITS SECRETARY.
2. MR.SANJAY MUNSHI,S/O. CHAMANLAL,DIRECTOR
SHANGRILA LATEX INDUSTRIES (P) LTD, SUNAMA HOUSE
ALTAMOUNT ROAD, MUMBAI-400N 036.
3. M/S.SHANGRILA LATEX INDUSTRIES (P) LTD,
SUNAMA HOUSE ALTAMOUNT ROAD, MUMBAI-400N 036.
REPRESENTED BY ITS DIRECTOR.
4. THE ASSISTANT DISTRICT INDUSTRIES
OFFICER, TALUK INDUSTRIES OFFICE
PALA 686 575.

R4 BY ADV.SMT.ANU SIVARAMAN, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.33291 OF 2007

Dated this the 13th day of November, 2007

JUDGMENT

Having regard to the nature of the order being issued hereunder, notice to respondents 1 to 3 are dispensed with, leaving them with liberty to move this Court seeking review of this judgment, if aggrieved.

2. The first respondent filed an arbitration case under the Kerala Co-operative Societies Act against the second respondent. Thereafter, the third respondent was impleaded. They also applied for impleadment of the petitioners, who were the directors of the third respondent company. Application for impleadment was allowed by the Arbitrator and such decision has been affirmed by the Co-operative Tribunal.

3. I have heard learned counsel for the petitioners in extenso on the merits of the contentions as regards the finding of the Tribunal as also the Arbitrator. I have also heard learned

counsel on the different aspects of the contentions which the petitioners have, in opposition to any liability being fastened on them personally.

4. By the impleadment, while the petitioners have been brought on record as additional defendants in the arbitration case, such impleadment shall not, in any manner, impair any of their defence, including the right to content that there can be no personal liability on them, who were directors of the third respondent company at some point of time. The question whether they are personally liable has to be decided with reference to the relevant laws and the facts. The maintainability of proceedings against the petitioners is also an issue which would be available for consideration at the final disposal of the arbitration case. The effect of the order of impleadment is only that the petitioners have been brought on record as additional defendants and the impugned orders do not, in any manner, preclude any of the contentions of the petitioners on the merits

of the case, including the question of jurisdiction, maintainability and liability of parties.

5. For the aforesaid reasons, while affirming the impleadment of the petitioners in the arbitration case, it is directed that the proceedings in the arbitration case shall be untrammelled by anything stated in the impugned orders. The petitioners shall be given opportunity to place on record all contentions as are available to them in opposition to the arbitration case and the matter shall be decided on merits without reference to the reasons stated in the impugned orders.

The writ petition is disposed of with the above direction.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

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